BANGALORE ELECTRICITY SUPPLY COMPANY LIMITED

Tender Enquiry No:
BESCOM/GM(DAS)/AMC/LRC&LBS)/2025-26/01/ dated 03.07.2025

SECTION – III

GENERAL TERMS AND CONDITIONS OF CONTRACT

(GCC)

Annual maintenance of Line Reclosures and Load Break Switch

Issued By

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SECTION-III - GCC

GENERAL TERMS & CONDITIONS OF CONTRACT

A. INTRODUCTION

1. Definition of Terms:

1.1 '**The Contract**' means the **Agreement** entered into between BESCOM and Contractor as per the Contract Agreement signed by the Parties including all attachments and appendices there to and all Documents incorporated by reference therein.

1.2 'OWNER' shall mean the **Bangalore Electric Supply Company, Limited (BESCOM)** and shall include their Legal Representatives, Successors and Assigns.

1.3 '**Contractor**' shall mean the **Bidder** whose Bid will be accepted by the **BESCOM** for the Award of the Works.

1.4 **Bidder '**shall mean an individual bidder participating in the tender, who may be a registered sole proprietorship firm, a partnership firm or a company registered under companies act.

1.5 '**Engineer**' shall mean the Officer appointed in writing by the **BESCOM** to act as Engineer from time to time for the purposes of the Contract.

1.6 '**Consulting Engineer**' shall mean any Firm or Persons duly appointed as such from time to time by the **BESCOM**.

1.7 The terms **'Equipments' 'Stores' and 'Materials'** shall mean and include Equipment, Stores and Materials to be provided by the Contractor under the Contract.

1.8 '**Works**' shall mean and include supplying of Equipment/Material in the Scope of the Contractor and extending all Services, as per the Specifications and Complete Erection, Testing and Putting into Satisfactory Operation including all Transportation, Handling, Unloading and Storage at the Site as defined in the Contract.

1.9 '**Specifications**' shall mean the Specifications and Bidding Document forming a Part of the Contract and such other Schedules and Drawings as may be mutually agreed upon.

1.10 '**Site**' shall mean and include the Land and other places on, into or through which the Works and the related facilities are to be Erected/repaired or Installed and any adjacent Land, Paths, Street or Reservoir which may be allocated or used by the BESCOM or Contractor in the Performance of the Contract.

1.11 The term '**Contract Price**' shall mean **the awarded price at the approved percentage on the amount put to tender based item wise rates** quoted by the Contractor in his bid with additions and/or deletions as may be agreed and incorporated in the letter of award, for the entire scope of the works.

1.12 The term '**Equipment/ Material Portion**' of the Contract Price shall mean the Total Value of the Equipment's including Freight & Insurance with all types of applicable Taxes such as CGST, SGST, IGST, UTGST, Duties and cess if any etc. The Term '**Erection Portion**' of the Contract Price shall mean the Value of Field Activities of the Works including Erection, Testing and Putting into Satisfactory Operation including Successful Completion of Performance and Guarantee Tests to be performed at Site by the Contractor including Cost of Insurances.

1.13 '**Manufacturer's Works**' or '**Contractor's Works**', shall mean the place of Work used by the Contractor for the Performance of the Contract.

1.14 '**Inspector**' shall mean the BESCOM or any Persons nominated by the BESCOM from time to time, to inspect the Equipment, Stores or Works under the Contract and/or the duly Authorised Representative of the BESCOM.

1.15 '**Notice of Award of Contract**'/'**Letter of Award /Letter of Intent**' shall mean the Official Notice issued by the BESCOM notifying the Contractor that his Bid has been accepted.

1.16 '**Date of Contract**' shall mean the date on which Notice of Award of Contract/ Letter of Award has been issued.

1.17 '**Month**' shall mean the Calendar Month. '**Day**' or '**Days**' unless herein otherwise expressly defined shall mean Calendar Day or Days of 24 Hours each. '**A Week**' shall mean continuous period of Seven (7) Days.

1.18 '**Writing**' shall include any Manuscript, Type Written, Computer Generated or Printed Statement, under or over Signature and/or Seal, as the case may be.

1.19 When the words '**Approved', Subject to Approval', Satisfactory', 'Equal to', 'Proper', 'Requested', 'As Directed', Where Directed', 'When Directed', 'Determined by, 'Accepted', 'Permitted**', or Words and Phrases of like importance are used, the Approval, Judgment, Direction etc is understood to be a function of the **BESCOM/Engineer.**

1.20 '**Test on Completion**' shall mean such Tests as prescribed in the Contract to be performed by the Contractor before the Work is taken over by the BESCOM.

1.21 '**Initial Operation**' shall mean the first Integral Operation of the Complete Equipment covered under the Contract in Service or available for Service.

1.22 '**Performance and Guarantee Test** 'shall mean all Operational checks and Tests required to determine and demonstrate Capacity, Efficiency, and Operating Characteristics as specified in the Contract Documents.

1.23 The term '**Final Acceptance/Taking Over**' shall mean the **BESCOM's** written acceptance of the Works performed under the Contract, after successful Commissioning/ Completion of Performance and Guarantee Tests, as specified in the accompanying Technical Specification or other-wise agreed in the Contract.

1.24 '**Guarantee Period**' **/** '**Maintenance Period**' shall mean the period during which the Contractor shall remain liable for Repair or Replacement of any defective Part of the Works performed under the Contract.

1.25 '**Latent Defects**' shall mean such defects caused by faulty Design, Material or Workmanship which cannot be detected during Inspection, Testing etc. based on the Technology available for carrying out such Tests.

1.26 '**Drawing', 'Plans**' shall mean all:

- Drawings, if any, furnished by the BESCOM/ Consultant as a basis for Bid/ Proposals.
- Supplementary Drawings, if any furnished by the BESCOM/ Consultant to clarify and to define in greater detail the intent of the Contract.
- Drawings submitted by the Contractor if any, with his Bid, provided such Drawings are acceptable to the BESCOM/ Consultant.
- Drawings furnished by the BESCOM/ Consultant to the Contractor during the progress of the Work; and
- Engineering Data and Drawings submitted by the Contractor during the progress of the Work provided such Drawings are acceptable to the BESCOM/Consultant.

1.27 '**Codes**' shall mean the following, but not limited to, including the latest Amendments, and/or Replacements if any:

- Indian Electricity Act, 2003 for further codes and Rules and Regulations made there under.
- Indian Factory Act, 1948, and Rules and Regulations made thereunder.
- Indian Explosive Act, 1884, and Rules and Regulations made thereunder.
- Indian Petroleum Act, 1934, and Rules and Regulations made there under.
- A.S.M.E. Test Codes.
- A.I.E.E. Test Codes.
- American Society of Materials Testing Codes.
- Standards of the Indian Standards Institution.
- Other Internationally approved Standards and/or Rules and Regulations touching the subject Matter of the Contract.

1.28 Words imparting the **Singular only** shall also include the **Plural** and vice-versa where the Context so requires.

1.29 Words imparting '**Persons**' shall include Firms, Companies, Corporation and Associations or Bodies of individuals, whether incorporated or not.

1.30 "**Bidding Documents**": Means Information & Instructions, General Conditions of Contract, Special Conditions of Contract, Technical Specifications, Drawings and other Annexures included in Sections IFB, ITB, GCC, SCC, TS, DRS, BPS.

1.31 "**Tests on Completion":** Means the Tests that are prescribed in the Bidding Documents to be made before Materials are accepted by the BESCOM.

1.32 "**Destination**": Means the Location where the Goods are specified to be delivered and where they will be accepted by the BESCOM.

1.33 "**Engineer":** Engineer means The General Manager (Ele.,), DAS,TIC&SG, Corporate Office, KR. Circle, Bengaluru, BESCOM, The Superintending Engineer (Ele.,), C, O&M Circles, The Executive Engineer (Ele.,), C,O&M Division / DAS Section, The Assistant Executive Engineer (Ele.,), C,O&M Sub-Division / DAS Section, The Assistant Engineer (Ele.,)/The Junior Engineer (Ele.,), of the O&M section /DAS section.

1.34 "**Owner's Representative"**: Mean, General Manager (Ele.,), DAS,TIC&SG OR Any other Engineer of the section who has been assigned with the Job.

1.35 "**Commissioning:** mean charging the Electrical equipment's at Rated Voltage after Completion of Erection, Testing and Completion of Pre-Commissioning checks.

1.36 The Term '**Services**' means Services Ancillary to the Supply of Goods such as Port Clearance, Transportation and Insurance and any other Incidental Services, such as Civil, Structural and Architectural Works, Erection, Testing and Commissioning and other such obligation of the Contractor covered under the Contract.

1.37 In addition to the above, the following definitions shall also apply:

- '**All Equipment and Materials**' to be supplied shall also mean '**Goods**'.
- '**Executed**' shall also mean **Completed & commissioned/ Repaired.**
- '**Contract Performance Guarantee**' shall also mean '**Performance Guarantee'.**

1.38 Terms and Expressions not herein defined shall have the same meanings as are assigned to them in the Sale of Goods Act (1930), Indian Contract Act (1872) and General Clauses Act (1897) including Amendments thereof if any.

1.39 HT- means High Tension.

1.40 LT - means Low Tension.

1.41 UG Cable – Under Ground cabl

1.42 AB Cable – Aerial Bunched cable.

1.43 Successful bidder/awarded agency/Contractor–means the bidder who has been selected by BESCOM, pursuant to the bidding process for award of contract.

1.44 YEAR – means the Consecutive 12 months.

1.45 Successful operation: means the materials installed shall be in service & performing satisfactorily.

1.46 **Maintenance Contract –** All the activities associated with supply of spare parts / equipments / materials/consumables, erection / repair, painting, testing and commissioning to keep the distribution network healthy all the times.

2.0 APPLICATION:

These General Conditions shall apply to the extent that they are not superseded by Provisions in other Parts of the Contract.

3.0 STANDARDS:

The Goods supplied under this Contract shall confirm to the Standards mentioned in the Technical Specification and, when no applicable Standard is mentioned, to the authoritative Standard appropriate to the Goods and such Standards shall be the latest issued by the concerned Institution.

4.0 LANGUAGE AND MEASURES:

All Documents pertaining to the Contract including Specification, Schedules, Notices, Correspondence, Operating and Maintenance Instructions, Drawings or any other Writing shall be written in English / Kannada language. The Metric System of measurement shall be used exclusively in the Contract.

5.0 CONTRACT DOCUMENTS:

5.1 The term Contract Documents shall mean and include the following which shall be deemed to form an integral part of the Contract:

a) Invitation of Bid including letter forwarding the Bidding Documents, Instructions to Bidders, General Terms and Conditions of Contract, Erection Conditions of Contract, Special Conditions of Contract, and all other Documents included under Volume-I.

b) Specifications of the Equipment/ Material to be furnished and erected under the Contract as brought out in the accompanying Technical Specifications and Data Requirement Sheets.

c) Contractor's Bid Proposal and the Documents attached thereto including the Letters of Clarifications thereto between the Contractor and the

BESCOM prior to the Award of Contract except to the extent of repugnancy.

d) All the Materials, Literature, Data and Information of any sort given by the Contractor along with his Bid, subject to the approval of the BESCOM.

e) Letter of Award and any agreed variations of the Conditions of the Documents and Special Terms and Conditions of Contract, if any.

5.2 In the event of any conflict between the above mentioned Documents, the matter shall be referred to the Engineer whose decision shall be considered as final and binding upon the Parties.

5.3 All the relevant Information/Material furnished by the Contractor such as Specifications of Material/ Equipment, Design, Literature, Drawings or any other Data during the course of Contract will become the Property of the BESCOM and BESCOM will have full rights to use the same elsewhere.

6.0 USE OF CONTRACT DOCUMENTS AND INFORMATION:

6.1 The Contractor shall not, without the BESCOM's prior written consent, disclose the Contract, or any provision thereof, or any Specification, Plan, Drawing, Pattern, Sample or Information furnished by or on behalf of the BESCOM in connection therewith, to any Persons other than a Person employed by the Contractor in the Performance of the Contract. Disclosure to any such employed Persons shall be made in confidence and shall extend only so far, as may be necessary for purposes of such Performance.

6.2 The Contractor shall not, without the BESCOM's prior written consent, make use of any Document or information enumerated in various Contract Documents except for purpose of performing the Contract.

6.3 The Contractor shall not communicate or use in Advertising, Publicity, Sales Releases or in any other Medium, Photographs or other reproduction of the Works under this Contract, or descriptions of the Site, Dimensions, Quantity, Quality or other information, concerning the Works unless prior written permission has been obtained from the BESCOM.

6.4 Any Document, other than the Contract itself, enumerated in various Contract Documents, shall remain the property of the BESCOM and shall be returned (in all copies) to the BESCOM on Completion of the Contractor's Performance under the Contract, if so required by the BESCOM.,

7.0 INDEPENDENT CONTRACTOR

7.1 The Contractor shall be an independent contractor performing the Contract. The Contract does not create any agency, partnership, joint venture or other joint relationship between the parties hereto.

7.2 Subject to provisions of the Contract, the Contractor shall be solely responsible for manner in which the Contract is performed. All employees, representatives or Subcontractors engaged by Contractor in connection with the performance

of the Contract shall be under the complete control of the Contractor and shall not be deemed to be employees of BESCOM, and nothing contained in the Contract or in any subcontract awarded by the Contractor shall be construed to create any contractual relationship between any such employees, representatives or Subcontractors and BESCOM.

8.0 CONSTRUCTION OF THE CONTRACT

Notwithstanding anything stated elsewhere in the Bid Documents, the **Single Works Contract** covering both Supply & Maintenance portion of the Contract will be issued to the successful Bidder.

9.0 AMENDMENT

No amendment or other variation of the contract shall be effective unless it is in writing, is dated, expressly refers to the contract, and is signed by a duly authorized representative of each party hereto.

10.0 JURISDICTION OF THE CONTRACT

10.1 The Contract, shall in all respects be constructed and governed according to Indian Laws.

10.2 The laws applicable to the Contract shall be the laws in force in India. The Courts of Bengaluru City of Karnataka State in India shall have exclusive jurisdiction in all matters arising under this Contract.

11.0 MANNER OF EXECUTION OF CONTRACT

11.1 The Contract, unless otherwise agreed to, shall be signed within 15days of the notification of the Letter Award, at the Office of the General Manager (Ele.,), DAS,TIC & SG, BESCOM at Bengaluru, on a date and time to be mutually agreed to. The Contractor shall provide for signing of the Contract, Performance Guarantee in Four Copies, appropriate Power of Attorney and other requisite Materials. In case the Contract is to be signed beyond the stipulated time, the Bid Security submitted with the proposal shall be extended accordingly.

11.2 The Agreement shall be signed in Duplicate and the Contractor shall be provided with one signed copy and the BESCOM will retain the Original.

11.3 The Contractor shall provide free of Cost to the BESCOM, the Engineering Data, Drawings and Descriptive Materials submitted with the Bid, in at least 2 copies to form a part of the Contract immediately after issue of Letter of Award.

11.4 Subsequent to signing of the Contract, the Contractor at his own Cost shall provide the BESCOM with at least Fifteen (15) true Bounded Copies of Contract documents within thirty (30) days after the signing of the Contract.

12.0 ENFORCEMENT OF TERMS

12.1 The failure of either Party to enforce at any time any of the provisions of this Contract or any rights in respect thereto or to exercise any option therein

provided, shall in no way be constructed to be a waiver of such provisions, rights or options or in any way to affect the validity of the Contract. The exercise by either Party of any of its rights herein shall not preclude or prejudice either Party from exercising the same or any other right it may have under the Contract.

13.0 PERFORMANCE

13.1 Contractor to put their best effort to maintain the equipment in ONLINE and make it available for remote operations with continuous coordination DAS Control Centre.

14.0 COMPLETION OF CONTRACT

Unless otherwise terminated under the provisions of any other relevant Clause, this Contract shall be deemed to have been completed on the expiry of the Guarantee Period as provided for under the Clause 15.0 entitled 'Guarantee' in Section-III, Volume-I of GCC.

B. GUARANTEES & LIABILITIES

15.0 TIME - THE ESSENCE OF CONTRACT:

15.1 The Time and the Date of Completion of the Contract as stipulated in the Contract by the BESCOM without or with modifications, if any, and so incorporated in the Letter of Award, shall be deemed to be the essence of the Contract. The Contractor shall so organize his resources and perform his Work as to complete it not later than the date agreed to.

15.2 The Contractor shall submit a activity chart to the Engineer a detailed Maintenance Program, in line with the agreed Contract. Such Maintenance Program shall be reviewed, updated and submitted to the Engineer once in every Month thereafter.

16.0 WORK SCHEDULE AND COMPLETION PERIOD

16.1 Field Survey:

The successful bidder shall conduct a field survey/Inventory for checking the number of equipment's connected to the 11kV network for carrying out the maintenance work. The inventory shall also include the spares to replace during maintenance. The detailed survey/Inventory report shall be submitted to BESCOM within 10 days from the date of receipt of DWA.

16.2 Any other items or materials of work not specifically mentioned in DWA & CSR 23-24 but which are essentially required for satisfactory performance & completeness of these works shall be deemed to be included in the scope of works and the same shall be executed / carried out by the Contractor at mutually agreed rates on par with market rates.

16.3 The whole of the works together with any temporary works associated therewith shall be carried out satisfactorily by the Contractor and workmanship like manner with the materials and workmanship as specified to the entire satisfaction of the Engineer-in-charge, and in such a manner as the Engineer-in-charge may direct. The Contractor shall carryout without any delay all orders and instructions which the Engineer-in-charge may issue from time to time.

17.0 EFFECTIVENESS OF CONTRACT:

The Contract shall be considered as having come into force from the date of the Notification of **Letter of Award/ Letter of Intent** (as applicable) unless otherwise provided in the Notification of Award.

18.0 PENALTY FOR DELAY IN EXECUTION/NON-EXECUTION OF THE WORK.

18.1 For delay in taking up the works as planned and not completing the maintenance work on time, penalty @ ½% per week will be levied against the works of that are delayed, subject to maximum of TEN percentage (10%) of cost on the portion of work which is not completed.

18.2 The period of continuance of delay beyond 30 weeks shall be at the discretion of the Engineer. If the Contractor still fails to complete the work within such extended period, the Contract shall be cancelled at Employer discretion.

18.3 During the warranty period, if the contractor fails to provide replacement of such material, 10% of PBG cost on the portion of work which is not carried out will be deducted by BESCOM.

18.4 In a nut shell, Penalties levied for the following:

18.4.1 Non-fulfilment of program of works within the stipulated period.

18.4.2 The number of days delayed beyond the stipulated period for completing the work.

18.4.3 Extra cost that might be incurred by BESCOM for getting the balance work completed through any other agency as it deems fit under the circumstances will be deducted from money due to contractor by BESCOM for work done under the Contract or otherwise.

18.4.4 Non Availability of Contractor Personnel during the execution of contract.

18.4.5 The total amount of Penalty for delay under the contract shall be subject to a maximum of ten percent (10%) of the contract price and BESCOM has got every right to terminate the contract without any liability if it crosses 10%.

19.0 LIQUIDATED DAMAGES

19.1 The Contractor guarantees that it shall attain Completion of the Facilities (or a part for which a separate time for completion is specified in the bid documents)

within the Time for Completion specified in the bid documents pursuant to GCC Clause 16.

19.2 Any defects noticed and/or failures/breakdown occurred during this period shall be rectified at free of cost to BESCOM. The repaired or new parts shall be supplied and erected at free of cost by the Contractor. Irrespective of number of failures and repairs, the contractor shall be responsible for free replacement of the defective materials. If they are not rectified or replaced within this period, the contractor shall pay Liquidated Damages (prorate basis). The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works, or from any other of his obligations and liabilities under the Contract.

19.3 No bonus will be given for earlier Completion of the Facilities or part thereof.

20.0 GUARANTEE

20.1 The Contractor shall guarantee that all Equipment spares supplied by him will be new, unused and in accordance with the Contract Documents and free from defects in Material and Workmanship for a period of 24 Months from the date of replacement. No repairs or replacement shall normally be carried out by BESCOM, when the Equipment is under the supervision of the Contractor's Supervisory Engineer.

20.2 Any defects noticed and/or failures/breakdown occurred during this period shall be rectified at free of cost to BESCOM. If they are not rectified or replaced within this period, the contractor shall pay Liquidated Damages (prorate basis) as per Liquidated Damages clause in the contract for the delay from the date of receipt of intimation for the defects or failures.

20.3 The incidental expenses, transport and freight charges for the replacement of defective materials within the contract period may also be borne by the contractor till such time it serves its stipulated contract period.

20.4 The acceptance of the works by BESCOM shall in no way relieve the Contractor of his obligations under guarantee clause.

21.0 DEFENSE OF SUITS:

If any action in Court is brought against the BESCOM or Engineer or an Officer or representative of the BESCOM, for the failure, omission or neglect on the part of the Contractor to perform any Acts, Matters, Covenants or things under the Contract, or for Damage or injury caused by the alleged omission or negligence on the part of the Contractor, his Agents, Representatives or his Sub-Contractors, or in connection with any Claim based on lawful demands of Sub-Contractors, Workmen, Suppliers or Employees, the Contractor shall in all such cases indemnify and keep the BESCOM, and the Engineer and/or his Representative, harmless from all losses, Damages, expenses or Decrees arising of such action.

22.0 LIMITATION OF LIABILITY

The final payment by the Owner by releasing the Contract Performance Guarantee in pursuance of the Contract shall mean the release of the Contractor from all his liabilities under the Contract. Such final payment shall be made only at the end of the Guarantee/Warranty period, and till such time as the Contractual liabilities and responsibilities of the Contractor, shall prevail. All other payments made under the Contract shall be treated as on-account payments.

23.0 PERFORMANCE GUARANTEE

As a Contract Performance Guarantee, the Successful Bidder, to whom the Work is awarded, shall be required to furnish the Performance Guarantee in the form of Bank Guarantee issued by a Public Sector Indian Bank/ Scheduled Commercial Bank in favour of General Manager(Ele.,), DAS,SG&TIC, BESCOM, Bengaluru. The Contract Performance Guarantee amount shall be equal to **FIVE PERCENT (5%)** of the Total awarded Contract Value and it shall guarantee the faithful Performance of the Contract in accordance with the Terms and Conditions specified in these Documents and Specifications. The Performance Guarantee shall be valid up to 90 days after the end of Warranty/Guarantee Period.

The final Payment by the Owner in pursuance of the Contract shall mean the release of the Contractor from all his liabilities under the Contract. Such final Payment shall be made only at the end of the Guarantee/Warranty Period, and till such time as the Contractual liabilities and responsibilities of the Contractor, shall prevail. All other Payments made under the Contract shall be treated as on account Payments.

24.0 ENGINEERS DECISION:

24.1 In respect of all matters which are left to the decision of the Engineer including the granting or with-holding of the Certificates, the Engineer shall, if required to do so by the Contractor, give in writing a decision thereon.

24.2 If, in the opinion of the Contractor, a decision made by the Engineer is not in accordance with the meaning and intent of the Contract, the Contractor may file with the Engineer, within fifteen (15) days after receipt of the decision, a written objection to the decision. Failure to file an objection within the allotted time will be considered as an acceptance of the Engineer's decision and the decision shall become final and binding.

24.3 It is the intent of the Agreement that there shall be no delay in the execution of the Works and the decision of the Engineer as rendered shall be promptly observed.

25.0 POWER TO VARY OR OMIT WORK:

25.1 No Alterations, Amendments, Omissions, Suspensions or Variations of the Works (hereinafter referred to as **'Variation'**) under the Contract as detailed

in the Contract Documents, shall be made by the Contractor except as directed in writing by the Engineer, but the Engineer shall have full powers, subject to the provisions hereinafter contained, from time to time, during the execution of the Contract, to issue Notice in writing to instruct the Contractor to make such Variation without prejudice to the Contract. The Contractor shall carry out such Variation and be bound by the same conditions as far as applicable as though the said Variations occurred in the Contract Documents. If any suggested Variations would, in the opinion of the Contractor, if carried out, prevent him from fulfilling any of his obligations or Guarantees under the Contract, he shall notify the Engineer thereof in writing and the Engineer shall decide forthwith whether or not, the same shall be carried out and if the Engineer confirms his instructions, the Contractor's obligations and Guarantees shall be modified to such an extent as may be mutually agreed to. Any agreed difference in Cost occasioned by any such variation shall be added to or reduced from the Contract Price as the case may be.

25.2 In the event of Engineer requiring any Variation, a reasonable and proper Notice shall be given to the Contractor to enable him to Work his arrangement accordingly, and in cases where Goods or Materials are already prepared or any Design, Drawings or Pattern made or Work done requires to be altered, a reasonable and agreed Sum in respect thereof shall be paid to the Contractor.

25.3 In any case in which the Contractor has received instructions from the Engineer as to the requirement of carrying out the Alterations or Additions or Substitute which either then or later on, will, in the opinion of the Contractor, involve a Claim for additional Payment, the Contractor shall immediately and in no case later than thirty (30) days, after receipt of the instructions aforesaid and before carrying out the instructions, advise the Engineer to that effect. But the Engineer shall not become liable for the Payment of any charges in respect of any such Variations, unless the instructions for the Performance of the same shall be confirmed in writing by the Engineer.

25.4 If any variation in the Works results in reduction of Contract Price, the Parties shall agree, in writing, as to the extent of any change in the Price, before the Contractor proceeds with the Change.

25.5 In all the above cases, in the event of a disagreement as to the reasonableness of the said Sum, the decision of the Engineer shall prevail.

26.0 CONTRACT VALUE AND PERMISSIBLE VARIATIONS:

The contract consists of two distinct components:

26.1. ANNUAL MAINTENANCE CONTRACT (AMC):

The AMC scope comprises preventive and corrective maintenance services for LRC and LBS equipment, with defined quantities and service schedules as specified in the tender.

- The quoted AMC charges are fixed for the scope and quantities mentioned.
- However, variation of up to **± 25%** of the AMC quantities/value shall be permitted during the contract period, at the same unit rates, without any change in other terms and conditions of the contract.

26.2. SUPPLY OF PROPRIETARY SPARES:

This component involves the supply of proprietary spares on a requirement basis during the contract period.

- As the spares requirement is indeterminate at the time of bidding, bidders shall quote firm unit rates for each listed item in the Price Schedule.
- The total value under this component shall vary based on actual usage during the contract, and BESCOM shall make payments strictly based on actual quantities supplied, duly certified by the designated Field Engineer.
- No ceiling or percentage limit shall apply to this component except the KEMA reference clause 10.2 of ITB. However, this component cost may vary upto 120% as the actual requirement is subject to field conditions.
- The unit rates quoted for spares shall remain firm and binding for the entire duration of the contract, and no escalation shall be allowed.

26.3 The Contractor shall be responsible for supply and execution of such final quantities for completion of the work and they shall be paid for such finalized quantity at the unit rate indicated in the price schedule.

26.4 The base Unit Rates, as identified in the Contract shall however remain constant during the currency of the Contract.

27.0 NO WAIVER OF RIGHTS:

Neither the inspection by the BESCOM or the Engineer or any of their Officials, Employees, or Agents, nor any Order by the BESCOM or the Engineer for Payment of money or any Payment for or acceptance of the whole or any part of the Works by the BESCOM or the Engineer, nor any extension of time, nor any possession taken by the Engineer shall operate as a waiver of any provision of the Contract, or of any power herein reserved to the BESCOM or any right to Damages herein provided nor shall any waiver of any breach in the Contract be held to be a waiver of any other or subsequent breach.

28.0 CERTIFICATE NOT TO AFFECT RIGHT OF BESCOM AND LIABILITY OF CONTRACTOR:

No interim Payment Certificate by the Engineer, nor any Sum paid on account by the BESCOM, nor any extension of time for execution of the

Works granted by the Engineer shall affect or prejudice the rights of the BESCOM against the Contractor or relieve the Contractor of his obligation for the due Performance of the Contract, or be interpreted as approval of the Works done or of the Equipment furnished and no Certificate shall create liability for the BESCOM to pay for alterations, amendments, variations or additional Works not Ordered, in writing, by the Engineer or discharge the liability of the Contractor for the Payment of Damages whether due, ascertained, or certified or not or any Sum against the Payment of which he is bound to indemnify the BESCOM, nor shall any such Certificate nor the acceptance by him of any Sum paid on account or otherwise affect or prejudice the rights of BESCOM against the Contractor.

C. CONTRACT SECURITY AND PAYMENTS

29.0 CONTRACT PERFORMANCE SECURITY/ GUARANTEE:

29.1 The Successful Bidder to whom the Contract is awarded, shall be required to furnish the Performance Guarantee in the form of Bank Guarantee issued by a Public Sector Indian Bank/Scheduled Commercial Bank in the format attached as Annexure-H & I in favour of the General Manager(Ele.,), DAS, SG & TIC, BESCOM. ***The Contract Performance Guarantee amount shall be equal to Five percent (5%) of the total awarded maintenance contract value*** and it shall guarantee the faithful Performance of the Contract in accordance with the Terms and Conditions specified in these Documents and Specifications. The Performance Guarantee shall be valid up to 90 days after the end of Warranty Period, as referred to in Clause 23.0, Section-III, General Conditions of Contract GCC.

29.2 The Contractor shall Guarantee the Successful and Satisfactory Operation of the Spare Parts supplied under the Contract, as per the Specifications and Documents. In the event of the bidder being unable to service the contract for whatever reason, BESCOM shall have the right to invoke the PBG. BESCOM shall notify the Bidder in writing of the exercise of its right to receive such compensation within 14 days, indicating the contractual obligation(s) for which the Bidder is in default. BESCOM shall also be entitled to make recoveries from the Bidder bills, PBG or any other payment due, in case of any error/omission on bidder's part.

29.3 The Contract Performance Guarantee amount shall be unconditional and irrevocable and the amount therein shall be payable to the Owner on demand without any condition whatsoever.

30.0 CONTRACT PRICE ADJUSTMENT:

30.1 The Prices are **FIRM** throughout the contract. No price variation will be allowed.

30.2 Any variation in the rates etc., will not be allowed on any ground, such as a mistake while quoting in the e-procurement portal, misunderstanding etc. after the bid has been submitted. If the Firm becomes lowest tenderer by virtue of such rates quoted, and does not agree to supply at the quoted rates, then BESCOM reserves the right to blacklist the Firm.

31.0 PAYMENT:

The Payment to the Contractor for the Performance of the Works under the Contract will be made by BESCOM as per the guidelines and Conditions specified herein. All Payment made during the Contract shall be on account Payments only. The final Payment will be made on Completion of all Works and on fulfillment by the Contractor of all his liabilities under the Contract.

32.0 CURRENCY OF PAYMENT:

All Payments under the Contract shall be in **Indian Rupees** only.

33.0 MONTHLY REMUNERATION:

33.1 The Monthly remuneration shall be paid on the actual quantity of maintenance carried out and spares replaced on LRC/LBS satisfactorily and duly endorsed by BESCOM-DAS officials and monitored by DAS team.

33.2 The Contractor shall submit the LRC/LBS maintenance report duly signed by Concerned Engineer of DAS and AE (O&M) to DAS section, same shall be verified by AGM (DAS) and approved by DGM (DAS).

33.3 The contractor shall submit monthly invoice in quadruplicate to the DAS office with relevant maintenance reports.

33.4 The payment shall be made after the acceptance of monthly maintenance report of the LRCs and LBS carried out as per the approved schedule by DAS. The Manager (DAS), AGM(DAS) and DGM (DAS) will verify the reports and certify the invoice. GM(DAS) shall counter sign the invoice as per the BESCOM norms. The payment will be arranged by AGM(F&C), DAS, BESCOM.

34.0 DEDUCTIONS FROM CONTRACT PRICE:

34.1 The contractor shall be responsible for the buyback of released/defective spares at the approved rates quoted in the Price Schedule.

34.2 The buyback value shall be calculated based on the quantity of released items certified by the designated DAS Field Engineer.

34.3 The corresponding amount shall be either deducted from the invoice(s) related to the supply of new spares or otherwise adjusted, as determined by the BESCOM.

34.4 Also all Costs, Damages or expenses which the BESCOM may have paid, for which under the Contract the Contractor is liable, will be claimed by the BESCOM. All such Claims shall be billed by the BESCOM to the Contractor

regularly as and when they fall due. Such bills shall be supported by appropriate and certified vouchers or explanations, to enable the Contractor to properly identify such Claims. Such Claims shall be paid by the Contractor within thirty (30) days of the receipt of the corresponding bills and if not paid by the Contractor within the said period, the BESCOM may then deduct the amount, from any monies due or becoming due to the Contractor under the Contract or may be recovered by actions of Law or otherwise.

D. RISK DISTRIBUTION

35.0 INSURANCE:

35.1 The Contractor at his Cost shall arrange, secure and maintain all Insurance as may be pertinent to the Works and obligatory in terms of law to protect his interest and interests of the Owner against all perils detailed herein. The form and the limit of such Insurance as defined herein together with the under-writer in each case shall be acceptable to the Owner. However, irrespective of such acceptance, the responsibility to Maintain adequate Insurance Coverage at all time during the period of Contract shall be of Contractor alone. The Contractor's failure in this regard shall not relieve him of any of his Contractual responsibilities and obligations. The Contractor shall, however, be authorized to deal directly with Insurance Company or Companies and shall be responsible in regard to maintenance of all Insurance covers. Further the Insurance should be in freely convertible Currency.

35.2 Any loss or damage to the equipment during handling, transportation, storage, erection/repair, putting into satisfactory operation and all activities to be performed till the successful completion of commissioning of the equipment shall be to the account of the Contractor. The Contractor shall be responsible for preference of all claims and make good the damages or loss by way of repairs and/or replacement of the equipment, damaged or lost. The transfer to title shall not in any way relieve the Contractor of the above responsibilities during the period of contract. The Contractor shall provide the Owner with copies of all insurance policies and documents taken out by him in pursuance of the contract. Such copies of documents shall be submitted to the Owner immediately after such Insurance coverage. The Contractor shall also inform the Owner in writing at least sixty (60) Days in advance regarding the expiry /cancellation and/or change in any of such Documents and ensure revalidation, renewal etc. as may be necessary well in time.

35.3 The perils required to be covered under the Insurance shall include, but not be limited to fire and allied risks, miscellaneous accidents (Erection risks) Workman compensation risks, loss or Damage in transit, theft, pilferage, riot and strikes and malicious Damages, civil commotion, weather conditions, accidents of all kinds, etc. The Scope of such Insurance shall be adequate to

cover the Replacement/Reinstatement Cost of the Equipment for all risks up to and including delivery of Goods and other Costs till the Equipment is delivered at Site. The Insurance policies to be taken should be on replacement value basis and/or incorporating escalation Clause. Notwithstanding the extent of Insurance cover and the amount of Claim available from the underwriters, the Contractor shall be liable to make good the full replacement/ rectification value of all Equipment/Materials and to ensure their availability as per Project/Contract requirements.

35.4 All Costs on account of Insurance liabilities covered under the Contract will be on Contactor's account and will be included in Contract Price.

35.5 The Clause entitled 'Insurance' under the Section-IV, Erection Conditions of Contract-ECC, Volume-I covers the additional Insurance requirements for the portion of the Works to be performed at the Site.

35.6 Liability for Accidents and Damages:

Under the Contract, the Contractor shall be responsible for loss or Damage to the Plant / Structures until the successful Completion of contract / Commissioning as defined elsewhere in the Bid Document.

36.0 DELAYS BY BESCOM OR HIS AUTHORIZED AGENTS:

In case the Contractor's Performance is delayed due to any act of omission on the part of the BESCOM or his authorized Agents, then the Contractor shall be given due extension of time for the Completion of the Works, to the extent such omission on the part of the BESCOM has caused delay, in the Contractor's Performance of the Contract. Regarding reasonableness or otherwise of the extension of time, the decision of the Engineer shall be final.

37.0 DEMURRAGE, WHARF AGE, ETC.

All demurrage, wharfage, and other expenses incurred due to delayed clearance of the Material or any other reason shall be to the account of the Contractor.

38.0 FORCE MAJEURE:

38.1 Force Majeure is herein defined as any cause which is beyond the control of the Contractor or the BESCOM as the case may be, which they could not foresee or with a reasonable amount of diligence could not have foreseen and which substantially affects the Performance of the Contract, such as:

38.2 Natural Phenomena, including but not limited to Floods, Droughts, Earthquakes and Epidemics.

38.3 Acts of any Government, domestic or foreign, including but not limited to War declared or undeclared, Priorities, Guarantees, and Embargoes. Provided either Party shall, within fifteen (15) days from the occurrence of such a cause, notify the other in writing of such causes.

38.4 The Contractor or the BESCOM shall not be liable for delays in performing his obligations resulting from any Force Majeure cause as referred to and/or defined above. The date of Completion will subject to hereinafter provided, is extended by a reasonable time even though such cause may occur after Contractor's Performance of obligation has been delayed due to other causes.

39.0 SUSPENSION OF WORK:

The BESCOM reserves the right to suspend and reinstate execution of the whole or any part of the Works without invalidating the provisions of the Contract. Orders for suspension or reinstatement of the Works will be issued by the Engineer to the Contractor in writing. The time for Completion of the Works will be extended for a period equal to duration of the suspension. The BESCOM shall not be responsible for any liabilities if suspension or delay is due to some default on the part of the Contractor or his Sub- Contractor.

40.0 CONTRACTOR'S DEFAULT

40.1 If the Contractor shall neglect to execute the works with due diligence and expediency or shall refuse or neglect to comply with any reasonable Order given to him, in writing by the Engineer in connection with the works or shall contravene the provisions of the contract, the Owner may give notice in writing to the Contractor to make good the failure/ eglect or contravention complained of. Should the Contractor fail to comply with the notice within thirty (30) days from the date of serving the notice, then and in such case the Owner shall be at liberty to employ other workmen and forthwith execute such part of the works as the Contractor may have neglected to do or if the Owner shall think fit, without prejudice to any other right he may have under the contract to take the work wholly or in part out of the Contractor's hands and re-contract with any other persons or persons to complete the works or any part thereof and in that event the Owner shall have free use of all Contractor's equipment that may have been at the time on the site in connection with the works without being responsible to the Contractor for fair wear and tear thereof and to the exclusion of any right of the Contractor over the same, and the Owner shall be entitled to retain and apply balance which may otherwise be due on the Contract by him to the Contractor, or such part of the works or of completing the works as the case may be. If the cost of completing the works or executing a part there of as aforesaid shall exceed the balance due to the Contractor, the Contractor shall pay such excess amount. Such payment of excess amount shall be independent of the **Penalty** for delay, which the Contractor shall have to pay if the completion of works is delayed.

40.2 In addition, such action by the BESCOM as aforesaid shall not relieve the Contractor of his liability to pay Penalty for delay in Completion of Works as defined in **Clause 18.0** of this Section.

40.3 Such action by the BESCOM as aforesaid the termination of the Contract under this Clause shall not entitle the Contractor to reduce the value of the Contract Performance Guarantee nor the time thereof. The Contract Performance Guarantee shall be valid for the full value and for the full period of the Contract including Guarantee period.

41.0 TERMINATION OF CONTRACT ON BESCOM'S INITIATIVE

41.1 The BESCOM reserves the right to terminate the Contract either in part or in full due to reasons other than those mentioned under Clause entitled Contractor's Default. The BESCOM shall in such an event give fifteen (15) days' Notice in writing to the Contractor of his decision to do so. The Contractor, upon receipt of such Notice, shall discontinue the Work on the date and to the extent specified in the Notice, make all reasonable efforts to obtain cancellation of all Orders and Contracts to the extent they are related to the Work terminated and terms Satisfactory to the BESCOM. Stop all further Sub-Contracting or Purchasing activity related to the Work terminated, and assist the BESCOM in Maintenance, Protection, and Disposition of the Works acquired under the Contract by the BESCOM.

41.2 In the event of such a termination the Contractor shall be paid the amount due to him for the work already under taken. If the Contractor is an individual or a Proprietary Concern and the individual or the proprietor dies and if the Contractor is a Partnership Concern and one of the Partners dies, then unless the BESCOM is satisfied that the legal Representatives of the individual Contractor or of the Proprietor of the Propriety Concern and in the case of Partnership, the surviving Partners, are capable of carrying out and completing the Contract, the BESCOM shall be entitled to cancel the Contract as to its incomplete part without being in any way liable to Payment of any compensation to the estate of deceased Contractor and/or to the Surviving Partners of the Contractor's Firm on account of the cancellation of the Contract except the amount which has already become due and payable. The decision of the BESCOM that the legal Representatives of the deceased Contractor or Surviving Partners of the Contractor, cannot carryover and complete the Contract, shall be final and binding on the Parties. In the event of such cancellation the BESCOM shall not hold the estate of the deceased Contractor and/or the Surviving Partners of the Contractor's Firm liable to Damages for not completing the Contract.

42.0 DELAYS IN THE CONTRACTOR'S PERFORMANCE:

Delay by the Contractor in the Performance of his obligations under the Contract shall render the Contractor liable for any, or all of the following sanctions:

a. Forfeiture of his Performance Guarantee.

b. Imposition of Penalty and/or

c. Termination of Contract for default as detailed herein.

If, at any time during Performance of the Contract, the Contractor should encounter conditions impending timely delivery of the Goods and for Performance of Services, the Contractor shall promptly notify the BESCOM, in writing, of the fact of the delay, its likely duration and its cause(s). Upon receipt of the Contractor's request, the BESCOM shall evaluate the situation and may, at his discretion, extend the time for Performance, in which case the extension shall be ratified by an amendment to Notification of Award/Contract Agreement.

43.0 FRUSTRATION OF CONTRACT:

43.1 In the event of Frustration of the Contract because of supervening impossibility in terms of Section 56 of the Indian Contract Act, the Parties shall be absolved of their responsibility to perform the balance portion of the Contract, subject to provisions contained in sub-Clause 45.3 below.

43.2 In the event of non-availability or suspension of Funds for any reasons whatsoever (except for reason of willful or flagrant breach by the BESCOM) and or Contractor, then the Work under the Contract shall be suspended. Furthermore, if the BESCOM is unable to make Satisfactory, alternative arrangements for Financing to the Contractor in accordance with the terms of the Contract within three Months of the event, the Parties hereto shall be relieved from carrying out further obligations under the Contract treating it as Frustration of the Contract.

43.3 In the events referred to in Sub-Clauses 45.1 and 45.2 above, the Parties shall mutually discuss to arrive at reasonable settlement on all issues including amounts due to either Party for the Work already done on "Quantum Merit" basis that shall be determined by mutual agreement between the Parties.

E. RESOLUTION OF DISPUTES

44.0 SETTLEMENT OF DISPUTES:

44.1 Any dispute(s) or difference(s) arising out of or in connection with the Contract shall, to the extent possible, be settled amicably between the Parties.

44.2 If any dispute or difference of any kind whatsoever shall arise between the BESCOM and the Contractor, arising out of the Contract for the Performance of the Works whether during the progress of the Works or after its Completion or whether before or after the termination, abandonment or breach of the Contract, it shall, in the first place, be referred to and settled by the Engineer, within a period of thirty (30) days after being requested by either Party to do

so, shall give written Notice of his decision to the BESCOM and the Contractor.

44.3 Save as hereinafter provided, such decision in respect of every matter so referred shall be final and binding upon the Parties until the Completion of the Contract / Works and shall forthwith be given effect to by the Contractor who shall proceed with the contract / Works with all due diligence.

44.4 During settlement of disputes and Court Proceedings, both Parties shall be obliged to carry out their respective obligations under the Contract.

45.0 RECONCILIATION OF ACCOUNTS:

The Contractor shall prepare and submit every month, a statement covering Payments Claimed and the Payments received vis-a-vis the Works/Maintenance executed, for reconciliation of Accounts with the BESCOM.

46.0 PHYSICAL VERIFICATION OF MATERIALS:

46.1 The successful bidder shall give the Physical Verification call letter in advance before 10 days to the General Manager (Ele.,), DAS,SG&TIC, BESCOM for verification, which include date and place at which the material will be ready for verification. After verification of the material and conformity with the relevant specifications, necessary instructions will be issued by the concerned Engineer.

46.2 The BESCOM's reserves the right to inspect, Test and, where necessary, reject the Goods after the arrival of the Goods shall in no way be limited or waived for the reason that the Goods have been previously inspected, Tested and passed by the BESCOM or his Representative prior to/after the transportation of Goods.

47.0 NOTICES:

47.1 Any Notice given by one Party to the other, pursuant to Contract, shall be sent in writing by Registered Post with Acknowledgement Due or Fax or E-mail. Fax / E-mail Notice shall be confirmed in writing to the address specified in the Contract.

47.2 Notice(s) shall be deemed to **have been duly and properly** served upon the Parties hereto, if sent by any of the above-mentioned methods to the address mentioned in the Contract.

47.3 A Notice shall be effective when issued by one of the above-mentioned modes or on the Notice's effective date, whichever is later.

48.0 LAWS, JURISDICTION, DISPUTES RESOLUTION AND ARBITRATION

48.1 A Party claiming that a Dispute has arisen under this Order must give the other Party a written notice of the particulars of the Dispute.

48.2 Any dispute(s) or difference(s) arising out of or in connection with the Contract shall, to the extent possible, be settled amicably between the Parties.

48.3 If the party fails to resolve such a dispute or difference by mutual consultation within thirty (30) days from the commencement of such dispute and difference, either party may require that the dispute be referred to arbitration under the Arbitration and Conciliation Act, 1996 (Indian) and subsequent Amendments made thereon, to be adjudicated by a sole arbitrator to be appointed by mutual agreement of both the parties and the award of the arbitrator shall be final and conclusive and binding upon both the Parties. (The date of commencement of the dispute shall be taken from the date when this clause reference is quoted by either party in a formal communication clearly mentioning existence of dispute or as mutually agreed).

48.4 The place of arbitration shall be in Bangalore. The arbitral procedure shall be conducted in English language.

48.5 The cost of arbitration including the fees of arbitrator shall be borne by both the parties equally.

48.6 During the settlement of disputes and Arbitration proceedings, both parties shall be obliged to carry out their respective obligations under the contract.

48.7 The award of the arbitrator shall be final and conclusive and binding upon the parties.

48.8 The courts of Bangalore only shall have the exclusive jurisdiction to deal with any issues arising out of this Contract.

49.0 COMPLIANCE WITH LAWS AND REGULATIONS

49.1 The laws and regulations which are applicable to the Contractor and under which the Contract is to be constructed shall be Indian Laws and Regulations. The other terms and conditions regarding compliance with laws and regulations are as below:

49.2 The Contractor shall, in all matters arising in the performance of the Contract, comply with all respects, give all notices and pay all fees required by the provisions of any national or state statute, ordinance or other law or any regulation or by-law of any duly constituted authority.

49.3 All liabilities arising out of the non-compliance of the Law of the Land by Contractor or its personnel will have to be borne by the Contractor, and BESCOM will not be responsible in any manner whatsoever for the same.

49.4 The Contract shall in all respect be construed and interpreted in accordance with the Laws in force in India, including any such Laws passed or made or coming into force during the period of the contract.

50.0 ENTIRE CONTRACT AGREEMENT

No modification, alteration or waiver of this contract order or any of its provisions shall be effective unless in writing and signed by both the parties

Sd/-
General Manager(Ele.,)
DAS,SG&TIC, BESCOM